UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

UNITED STATES OF AMERICA, Criminal No. 5:16cr00008

Plaintiff,

vs. Harrisonburg, Virginia

RYAN BUCHANAN,

8:18 a.m.
Defendant. February 2, 2017

TRANSCRIPT OF GUILTY PLEA HEARING
BEFORE THE HONORABLE MICHAEL F. URBANSKI
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the United States: GRAYSON A. HOFFMAN
U.S. Attorney's Office
116 N. Main St. Room 130
Harrisonburg VA 22802

For the Defendant: JOHN H. ELLEDGE, III
Eldridge, Elledge Evans &
Harding, PLC
P.O. Box 1415
Harrisonburg VA 22803

JOSHUA B. ADAMS
53 West Jackson Blvd.
Suite 1515
Chicago IL 60604-3606

Court Reporter: Sonia Ferris, RPR, OCR
U.S. Court Reporter
116 N. Main St. Room 314
Harrisonburg, VA 22802
540.434.3181. Ext. 7

Proceedings recorded by mechanical stenography; transcript produced by computer.

THE COURT: Good morning.

Is the United States ready to proceed?

MR. HOFFMAN: We are, Your Honor.

THE COURT: Is the defendant ready to proceed?

MR. ADAMS: Yes, we are, Your Honor.

THE COURT: It's my understanding we're here today to conduct a Rule 11 guilty plea hearing. It's expected the defendant will plead guilty to certain charges in the superseding indictment.

Mr. Buchanan, before I call upon you to plead, I must be satisfied that you possess a sufficient understanding of your situation so as to make a knowing, voluntary, intelligent and informed plea. In that regard, I need to ask you certain questions and you must answer them under oath.

During this proceeding, if there's some question asked or statement made that you don't understand, I need you to stop the proceeding, let your counsel know there's something you don't understand, and let me know as well. Likewise, if there's something said here that you don't agree with, that is just not consistent with what you understand this guilty plea to be, you need to stop, let your counsel know and let me know as well. One of the important parts of this proceeding is that you are fully aware of what you're doing, you understand what you're doing and this is what you want to do. Okay?

THE DEFENDANT: Yes, sir.

THE COURT: Now, if you don't speak up, I'm going to assume that you understand what's being said and that you agree with it.

Are we clear on that?

THE DEFENDANT: Yes, sir.

THE COURT: Let's ask the clerk to administer the oath to the defendant, please.

(Defendant sworn.)

Mr. Adams, if you would go to the podium with your client, please.

Mr. Elledge, you're free to go as well, if you'd like. Or you can stay there; whatever you want.

Mr. Buchanan, now that you've been sworn, do you understand that you must answer all questions truthfully?

THE DEFENDANT: I do, Your Honor.

THE COURT: If you answer any question falsely, your answers may later be used against you for perjury or making a false statement.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: I want to ask you some questions directed to the issue of your competency. The reason I ask these questions is because this hearing is important to you and I want to make sure that you're clear-headed, alert and fully understand what's going on. All right?

THE DEFENDANT: Yes, sir.

THE COURT: Tell me what your name is.

THE DEFENDANT: Ryan Buchanan.

THE COURT: And how old are you?

THE DEFENDANT: 35.

THE COURT: 35 years old.

Where are you from?

THE DEFENDANT: West suburbs; Downers Grove, Illinois.

THE COURT: How far did you get in school?

THE DEFENDANT: Completed some college.

THE COURT: So you can read and write.

THE DEFENDANT: Yes, sir.

THE COURT: In English.

THE DEFENDANT: Yes, sir.

THE COURT: Understand English when it's spoken to you?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any condition that I need to be aware of, such as a hearing problem or some other issue, that might prevent you from understanding the words as they're spoken here in open court?

THE DEFENDANT: No, sir.

THE COURT: Have you ever been treated for any sort of emotional or mental problem that might impair your judgment, interfere with your thinking, make it difficult for you to understand what's going on here today?

THE DEFENDANT: No, sir.

THE COURT: Have you otherwise been diagnosed or treated for any sort of mental illness or problem?

THE DEFENDANT: No, sir.

THE COURT: Have you been treated for addiction to alcohol or any narcotic drug?

THE DEFENDANT: No, sir.

THE COURT: Have you taken any substances -- drugs, alcohol, intoxicants, prescription medicines or controlled substances -- in the last day or so that might affect your judgment, your ability to understand what's going on here?

THE DEFENDANT: No, sir.

THE COURT: Counsel, do you have an opinion with regard to Mr. Buchanan's competency?

MR. ADAMS: I believe he is competent, Your Honor.

THE COURT: Do we have a copy of the superseding indictment?

MR. ADAMS: I do, Your Honor.

THE COURT: Mr. Buchanan, have you received a copy of that indictment?

THE DEFENDANT: Yes, I have.

THE COURT: Have you read it?

THE DEFENDANT: Yes, I have.

THE COURT: Have you gone over it with your lawyer?

THE DEFENDANT: Yes, I have.

THE COURT: Mr. Adams, what have you done to acquaint your client with the charges against him in this superseding indictment?

MR. ADAMS: Your Honor, Mr. Buchanan and I went over the facts contained -- the statements contained in the indictment; went over the evidence to support each count in the indictment; and apprised him of the statutory maximums of each count he's pleading guilty to.

THE COURT: Based on your discussion with your client about the charges in the indictment, are you in a position to waive its formal reading or would you like to have it read into the record?

MR. ADAMS: We'll waive formal reading, Your Honor.

THE COURT: Mr. Buchanan, have you had a chance to fully discuss the charges in the indictment with your attorney?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you believe you understand the charges in the indictment?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that they're felonies?

THE DEFENDANT: Yes.

THE COURT: Do you understand that by pleading guilty -- I believe the plea agreement provides for Counts 1 and 3.

MR. ADAMS: Yes, Your Honor.

THE COURT: Do you understand by pleading guilty to Counts 1 and 3, that means that you are agreeing with the government that you did what is charged in Counts 1 and 3?

THE DEFENDANT: Yes.

THE COURT: Now, I understand we have a written plea agreement in this case. Have there been any changes to the plea agreement since it was filed? Is there going to be an amended plea agreement?

MR. ADAMS: Yes, Your Honor.

THE COURT: Do we have a copy of that amended plea agreement?

MR. HOFFMAN: Yes, Your Honor. I have a copy here, amended and initialed by the parties and the defendant.

THE COURT: Can one of you all tell me what the changes were to the amended plea agreement from the one I have in front of me?

MR. HOFFMAN: Yes, Your Honor; I'd be happy to. There were two changes that were made.

THE COURT: Is it to the penalties -- supervised release and the amount of the fine to Count 3?

MR. HOFFMAN: That's correct, Your Honor.

THE COURT: That's what the law clerk e-mailed you about yesterday?

MR. HOFFMAN: Yes, Your Honor.

We changed the maximum fine up to $500,000 and the term of supervised release down to three years.

THE COURT: I think it's no more than three years; is that right?

MR. HOFFMAN: I believe so, Your Honor.

THE COURT: Do you understand those minor changes to the plea agreement and did you go over those with your lawyer, Mr. Buchanan?

THE DEFENDANT: Yes.

THE COURT: Did you initial those?

THE DEFENDANT: Yes, I did.

THE COURT: Now, did you read the plea agreement?

THE DEFENDANT: Yes.

THE COURT: Did you go over its terms with your lawyer?

THE DEFENDANT: Yes, sir.

THE COURT: Did you go over every page?

THE DEFENDANT: Yes, I did.

THE COURT: Initial the bottom of the page indicating you went over it with your lawyer?

THE DEFENDANT: Yes, I did.

THE COURT: Sign it at the end?

THE DEFENDANT: Yes.

THE COURT: Indicating you agree with its terms?

THE DEFENDANT: Yes, sir.

THE COURT: Now, I want to ask the United States Attorney, Mr. Hoffman, to go over the essential terms of the plea agreement. I do this deliberately, Mr. Buchanan, because I want you to hear out of the mouth of the government what they say this plea deal means. So if something doesn't sound right to you, it would be time to let us know. Okay?

THE DEFENDANT: Okay.

MR. HOFFMAN: Your Honor, reading from page one of the plea agreement: The defendant states his understanding and his agreement that he will enter a plea of guilty to Counts 1 and 3 of the superseding indictment.

Continuing on page one. Count one charges the defendant with conspiring to distribute and possess with the intent to distribute MDPV and alpha-PVP, which are controlled substance analogues as defined by 21 U.S.C. Section 802 sub 32, and intended for human consumption, as provided by 21 U.S.C. Section 813, in violation of 21 U.S.C. Sections 846 and 841(B)(1)(c).

Here, the maximum statutory penalty is a fine of a million dollars and/or imprisonment for a term of 20 years, plus a term of supervised release of at least three years.

Count 3 charges him with knowingly and intentionally conspiring with other persons to commit offenses against the

United States, in violation of Title 18 United States Code Section 1956, to wit: To knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce which involve the proceeds of a specified unlawful activity; that is, conspiracy to distribute and possess with the intent to distribute MDVP and alpha-PVP, which are controlled substance analogues, as defined in 21 U.S.C. Section 802, subparagraph 32, with the intent for human consumption, as provided in 21 U.S.C. Section 813; in violation of 21 U.S.C. Section 846, with the intent to promote the carrying on of such specified unlawful activity; in violation of 18 U.S.C. Section 1956H.

The maximum statutory penalty is a fine of $500,000 and/or a term of imprisonment of up to 20 years, plus a term of supervised release of three years -- up to three years.

In the middle of page two, the defendant states his understanding that he's pleading guilty as described above because he is, in fact, guilty and because he believes it's in his best interests to do so, and not because of any threats or promises.

At the bottom of page two and top of page three, the defendant waives a series of constitutional rights upon his plea of guilty.

Moving to page three, at the bottom. The defendant states his understanding that if the sentence is more severe than he expects, he will still have no right to withdraw his plea. He's discussed sentencing issues with his attorney and he realizes there is a substantial likelihood he will be incarcerated.

Moving to page four, third paragraph down. The defendant agrees to accept responsibility for his conduct.

In paragraph three on page four, the defendant states his understanding that even if he fully cooperates with law enforcement, the United States is still not under an obligation to make a motion for the reduction of his sentence. He understands that if the United States does make a motion for a reduction in his sentence that it's the Court, after hearing the evidence, that will determine how much of a departure, if any, he should be given.

The defendant's monetary obligations under the plea agreement are explained on pages 4, 5, 6, 7 and 8. But moving to page seven under the forfeiture paragraph, the defendant agrees to forfeit a money judgment in the sum of $5,000, and he agrees to remit that at least ten days prior to his sentencing in this case.

Moving to page nine of the plea agreement, there, the defendant agrees to waive his right to appeal and collaterally attack, as spelled out in both of those paragraphs.

Moving to page ten of the plea agreement. On paragraph seven of page ten, the defendant states his understanding that if he fails to plead guilty in accordance with this agreement or withdraws his plea of guilty, any statements he has made, including in the plea agreement, his admission of guilt during or in preparation for any guilty plea hearing, sentencing hearing or other hearing; and any statements he has made or may make to any law enforcement agents in any setting, including a proffer, may be used against him in this or any other proceeding. He knowingly waives that right -- he knowingly waives any right that he might have under the Constitution, statute, rule or other source of law to have such statements or evidence derived from such statements suppressed or excluded from being admitted into evidence, and he stipulates that any such statements can be admitted into evidence.

At the bottom of page ten and the top of page eleven, the defendant describes his agreement to cooperate with law enforcement in the investigation. He agrees to cooperate fully. He agrees to testify truthfully, and the remaining details of that agreement are spelled out, again, on pages ten and eleven of the plea agreement.

The remedies that are available to the United States if the defendant breaches any provisions of the plea agreement are explained on pages eleven and twelve.

On page twelve, paragraph F3, the defendant states he has discussed the terms of this plea agreement and all matters pertaining to the charges against him with his attorney. He's fully satisfied with his attorney and his attorney's advice. At this time, the defendant has no dissatisfaction or complaint about his attorney's representation. He further agrees to make known to the Court no later than at the time of his sentencing any dissatisfaction or complaint he might have with his attorney's representation.

Moving to page thirteen of the plea agreement, about halfway down. The defendant states he is willingly stipulating there's a sufficient factual basis to support each and every material factual allegation contained in the charging document to which is pleading guilty.

Finally, on page fourteen of the plea agreement, a couple paragraphs down, the defendant states that he has consulted with his attorney and he fully understands his rights. He's read the plea agreement, has carefully reviewed every part of it with his attorney. He understands the agreement. He's voluntarily agreeing to it. The defendant says he has not been coerced, threatened or promised anything, other than the terms of the plea agreement described above, in exchange for his plea of guilty. Being aware of all the possible consequences of his plea, he's independently decided to enter the plea of his own free will and is affirming that agreement on this date with his signature below.

THE COURT: Thank you, Mr. Hoffman.

Mr. Adams, is that summary consistent with your understanding of the essential terms of the plea agreement?

MR. ADAMS: Yes, it is, Your Honor.

THE COURT: Mr. Buchanan, is that summary consistent with your understanding as well?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you believe you understand the terms of the plea agreement?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you have any questions about the plea agreement that you want to ask the Court?

THE DEFENDANT: No, I do not.

THE COURT: Do you agree to the terms of the plea agreement?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you want the Court to accept the plea agreement?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Has anybody attempted to force you, threaten you, pressure you, coerce you, make you sign this plea agreement?

THE DEFENDANT: No, Your Honor.

THE COURT: Make you plead guilty in this case?
THE DEFENDANT: No, Your Honor.
THE COURT: Have you been made any promises or assurances separate from or different than those set forth in this written plea agreement?
THE DEFENDANT: No, Your Honor.
THE COURT: Does the plea agreement represent in its entirety your entire agreement with the United States?
THE DEFENDANT: Yes, Your Honor.
THE COURT: Now, this is a felony offense, so in addition to the penalties that Mr. Hoffman mentioned and that I'll go over again in a minute, if you're found guilty of this felony offense, along with it comes the deprivation of valuable civil rights, including the right to vote, to serve on a jury, possess any kind of firearm, hold public office.
Do you understand that?
THE DEFENDANT: Yes, Your Honor.
THE COURT: Are you a citizen of the United States?
THE DEFENDANT: Yes, Your Honor.
THE COURT: Okay.
Now, Counts 1 and 3 of the indictment, superseding indictment, have you read those?
THE DEFENDANT: Yes, Your Honor.
THE COURT: Count 1 charges a violation of 21 United States Code Section 841(a)(1), (b)(1)(C) and 846. That's a

drug trafficking conspiracy.

It indicates that with regard to that, that you and others, from in or about March 2011 to in or about October of 2015, knowingly conspired to possess with the intent to distribute and distribute one or more controlled substances, which include one or more Schedule I controlled substances and one or more controlled substance analogues, as they're defined in the Code.

Do you understand that's what you're charged with in Count 1?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Count 3 is conspiracy to commit promotion money laundering, and that charges -- that's a violation of 18 United States Code Section 1956. That is that you conspired with others to knowingly conduct and attempt to conduct a financial transaction affecting interstate or foreign commerce which involve the proceeds of a specified unlawful activity; that is, the conspiracy to distribute or possess with the intent to distribute one or more controlled substances or analogues.

Do you understand what Count 3 is?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now, in order to get a conviction for Count 1, the conspiracy -- drug trafficking conspiracy -- the Government would have to prove that you agreed with another person to violate the drug laws; specifically, to distribute and possess with the intent to distribute substances known as -- I'm just going to use the abbreviations -- MDPV and a-PVP; that the defendant had knowledge of the essential objectives of the conspiracy; that you knowingly and voluntarily involved yourself in the conspiracy; and that there was some interdependence among the alleged conspirators.

Now, during the period of this conspiracy, some of the substances involved were considered to be controlled substance analogues, and then later on during the period of the conspiracy, they became scheduled -- Schedule I controlled substances. So, for a portion of the time between March of '11 and October of 2015, MDPV and a-PVP were considered controlled substance analogues, as defined in 21 United States Code Section 802.32A.

To the extent they are intended for human consumption, controlled substance analogues are treated as Schedule I controlled substances under the drug laws. At some point during the span of the conspiracy, each of these substances was placed on a Schedule I of federal drug schedules. MDPV was listed as a Schedule I drug on October 21, 2011, and a-PVP was listed as a Schedule I drug on March 7, 2014. Before those dates, they were considered to be controlled substance analogues.

The reason I tell you this is that there's a different proof requirement on behalf of the government to prove certain elements for conspiracy to traffic in these substances when they were considered to be an analogue versus when they were considered to be a Schedule I controlled substance. Different proof requirements.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: It really goes to the knowledge and intent of the defendant.

As regards the knowledge requirement, the government would have to prove that the defendant knew the object of the conspiracy was to knowingly and intentionally distribute and possess with the intent to distribute some controlled substance; that is one actually listed on the federal drug schedules, or treated as such by operation of the analogue acts; or that the defendant knew of the identity of the substance he was dealing with, even if he did not know the legal status of the drug laws.

That's the McFadden case out of the United States.

In other words, the government would have to prove that when it was an analogue that you knew it was -- it either had the same chemical properties as a scheduled controlled substance or had a similar effect on the human body. And that it was intended for human consumption.

Do you understand that?

THE DEFENDANT: Yes, I do.

THE COURT: Later on when it was a controlled substance, they would have to prove, in terms of knowledge and intent, that you had some knowledge and intent that these substances were, in some respect, controlled substances.

Do you understand the government would have to prove that knowledge and different knowledge elements as regards the period of the conspiracy in which they were controlled substance analogues versus controlled substances?

THE DEFENDANT: Yes, Your Honor.

THE COURT: As to Count 3 --

MR. HOFFMAN: Your Honor, I'm sorry. If I may, for a point of clarification?

THE COURT: Yes.

MR. HOFFMAN: As the Court well knows and is on the record, McFadden says there are a couple different ways. So one of them is, of course, direct evidence the defendant actually knew the substance was an analogue. Another way would be circumstantial evidence that the defendant knew the substance was an analogue. Or, as the Court just said, evidence the defendant knew the chemical structure of the substance was substantially similar to a controlled substance on Schedule I or II, and the substance had the actual intent or claim of the pharmacological effect.

Just highlighting McFadden provides a couple different ways to satisfy the knowledge element.

THE COURT: Yes, it does. I was doing that off the top of my head, so I appreciate you helping me with that.

MR. HOFFMAN: I couldn't do it off the top of my head.

THE COURT: I've tried a couple of these cases, both before McFadden was decided, so I'm familiar with that.

The elements of Count 3 would require the government to prove the existence of an agreement between two or more persons to commit one or more of the substantive money laundering offenses described under 18 United States Code Section 1956. In this case, the substantive money laundering offense is to knowingly conduct or attempt to conduct a financial transaction affecting interstate and foreign commerce, which involves the proceeds of a specified unlawful activity, and that is, in this case, conspiracy to distribute and possess with the intent to distribute one or more controlled substances, which included one or more Schedule I controlled substances and one or more controlled substance analogues, with the intent that those be used for human consumption, as provided in Title 21 United States Code Section 813, with the intent to promote the carrying on of such specified unlawful activity.

The government would have to prove that you knew the money laundering proceeds had been derived from an illegal activity and that you knowingly and voluntarily became part of the money laundering conspiracy.

Do you understand that in order to get a conviction, the government would have to prove all of these elements of Counts 1 and Counts 3?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now -- and you've gone over all that with your lawyer; right?

THE DEFENDANT: Yes, sir.

THE COURT: Gone over the discovery? Understand the facts of this case; correct?

THE DEFENDANT: Yes, sir.

THE COURT: Talked with your lawyer about the fact you could plead not guilty and go to trial?

THE DEFENDANT: Yes, sir.

THE COURT: You could enter a plea of nolo contendre or no contest, and you could enter a plea of guilty?

THE DEFENDANT: Yes, sir.

THE COURT: And you've gone over all that with your lawyer.

THE DEFENDANT: Yes, sir.

THE COURT: The maximum possible penalty for Count 1 is a fine of one million dollars, a period of incarceration of from 0 to 20 years.

The maximum possible penalty provided by law for

Count 3 is a period of incarceration of up to 20 years and a fine up to $500,000. There is no mandatory minimum penalty for each count. There is a period of supervised release -- and I'll talk about that in just a moment -- of at least three years on Count 1 and not more than three years on Count 3.

There's a money judgment forfeiture specified in the plea agreement of $5,000.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: There's a mandatory special assessment of $100 per count for these offenses.

Do you understand those penalties are the consequences of your plea?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Have you gone over these penalties with your lawyer?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Have you talked with your lawyer about the sentencing guidelines and how they may affect your case?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Let me preview for you briefly how I'll go about arriving at a sentence in this case.

What's going to happen is, after today, I'm going to ask probation to do a pre-sentence report. You will meet with probation, with your lawyer, go over information that they need. The Court will get a copy of the pre-sentence report. Your lawyers will get a copy of it. The government will get a copy of it and you'll have a chance to go over it before the sentencing hearing. That pre-sentence report will contain a recommendation to me, under the advisory sentencing guidelines, as to what an appropriate range of sentence is in this case.

Now, as I said, the sentencing guidelines are advisory. They're not binding on the Court, but the Court is required to consider those in association with the sentencing in this case. So I start there. I will make guideline findings at the sentencing hearing and then I will apply the factors under 18 United States Code Section 3553(a). Those factors include the nature and circumstance of the offense -- okay, what's the crime here? Two, the -- and particularly, what did Ryan Buchanan do? What was his role in this offense?

Next, I will consider your history and your characteristics, how you've lived your life otherwise; any prior criminal history; any other physical, mental, substance abuse issues that I have to think about.

I will move from there to more generalized considerations, such as the need for the sentence to reflect the seriousness of the offense; to provide just punishment; to afford adequate deterrence; to protect the public; to consider issues of avoiding unwarranted sentencing disparities; and other factors.

In other words, I don't know today what sentence you'll get. I need more information. I need the pre-sentence report. I need the lawyers to make argument. I need to hear whatever evidence there is and I need to apply these factors. So I don't know what your sentence is going to be, but I do know what the ranges are. For Count 1, it's from 0 to 20 years, and for Count 3, it's from 0 to 20 years. So, you plead guilty and I accept that guilty plea, then I am, under the law, authorized to sentence you anywhere from 0 to 20 years, and under this plea agreement, you're waiving your right to appeal that.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Now, I'm going to give you and your lawyer and the government ample chance to argue as to an appropriate sentence. I'll give you a chance to bring in people to testify in your behalf and provide me letters and whatnot. But I just want you to know, at the end of the day, it's up to me to decide what the penalty is.

Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now, you may not like the sentence you get; okay? And you will not be allowed to withdraw your guilty plea simply because the sentence you get is higher than what you might expect.

Do you understand that?

THE DEFENDANT: Yes, I do.

THE COURT: Now, there were no guideline stipulations in here that I'm aware of that I have to think about, so each side is free to argue guidelines as appropriate at sentence; correct?

MR. ADAMS: Yes, Your Honor.

THE COURT: I think there are other counts that will be dismissed as part of this plea agreement. Okay?

Does the government agree in this plea agreement to recommend a sentence within the applicable guideline range?

MR. HOFFMAN: We do not, Your Honor.

THE COURT: Yeah. So there's no agreement as to sentence, one way or the other.

MR. HOFFMAN: That's correct, Your Honor. It's wide open.

THE COURT: All right.

Mr. Buchanan, there is no parole under the federal system anymore. If you are sentenced to a period of incarceration, you will serve that entire term, less any period of good time credit that might be given by the Bureau of Prisons.

Do you understand that?

THE DEFENDANT: Yes, I do.

THE COURT: There's no board you can get out early. As far as I'm concerned, whatever sentence you get, that's what you'll serve.

THE DEFENDANT: Yes, sir.

THE COURT: For supervised release, for Count 1, it's at least three years. For Count 3, it's up to three years.

Supervised release is a period after you serve any period of incarceration that may be imposed in which you'll be under supervision of the Court. Kind of like you're under bond now. You can't break the law. You can't possess any firearms. You can't use illegal drugs. You've got to tell probation where you are and follow any of their instructions. If you violate the terms of supervised release, you can be brought back on a violation on the terms of your supervised release and the Court can put you in prison for that violation of supervised release. In other words, if you are sentenced to a period of incarceration, after you've served it, you still have an obligation to the Court and it's going to be for at least three years.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Let's talk about what you're giving up on this plea agreement. You're giving up three things.

First, you're giving up your right to a jury trial.

You're giving up your right to have twelve folks sit in this jury box and decide whether the government has proven its case against you beyond a reasonable doubt. You don't have to prove anything. You are entitled to sit at counsel table and remain silent and not have that silence used against you.

You would have, at the trial, the right to the assistance of counsel under the Sixth Amendment. Again, you have the right under the Fifth Amendment to remain silent. You would have the right under the Sixth Amendment to see the government's evidence, to confront and cross-examine their evidence. You would have the right to use the subpoena power of the Court to bring documents and things in here to assist in your defense. You would have the right to require the government to prove its case beyond a reasonable doubt to a unanimous jury. All those rights you have upon a plea of not guilty. But by pleading guilty, you waive all those rights except for the right to the assistance of counsel, which you will retain, but you waive all those rights and there will be no trial.

Do you understand that?

THE DEFENDANT: Yes, I do.

THE COURT: Next thing you're giving up in this plea agreement, and it is on page nine, you're giving up your right to appeal. You're giving up your right to appeal except for any issue that cannot be waived as a matter of law. What's the practical upshot of that for Ryan Buchanan? That is, if I sentence you anywhere within the range that the law allows -- and that's up to 20 years -- you can't appeal that. You're giving up your right to appeal that.

Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now, third thing is you're giving up your right to collaterally attack the judgment. Well, what does that mean? A collateral attack on the judgment is a filing of a petition for a writ of habeas corpus under 28 United States Code Section 2255, and it is a petition to the Court to "let me out" because there was some statutory or constitutional violation in the way your case was handled. You are giving that up in this plea agreement except for any claim that your lawyer was constitutionally ineffective.

Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: So, in other words, you're giving up your right to jury trial in its entirety. You're giving up your right to file an appeal. You're giving up your right to file a habeas petition except in narrow circumstances.

Do you understand those rights you're giving up in this plea agreement?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now, understanding those rights, do you still want to go forward?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Are you fully satisfied with the advice and representation provided by your counsel, Mr. Elledge and Mr. Adams, in this case?

THE DEFENDANT: Yes, sir, I am.

THE COURT: Is there anything you have a question about what we've covered? Anything you want to ask me about before we go forward?

THE DEFENDANT: No, sir.

THE COURT: Let me ask the United States to present the facts it would be prepared to prove were this case to go to trial.

MR. HOFFMAN: Yes, Your Honor.

And Your Honor, before I read the statement of facts, with the Court's indulgence, may I just read the elements again for Count 3 into the record, for the sake of clarity?

THE COURT: Please.

MR. HOFFMAN: For promotion and money laundering, the government would have to show the defendant agreed to commit, as the Court said earlier, promotion money laundering; promotion money laundering being, one, the defendant conducted or, here, conspired to conduct a financial transaction having at least a de minimus effect on interstate commerce or involving the use of a financial institution which had at least a de minimus effect on commerce. Two, the property was the subject of the transaction involved in the proceeds of a specified unlawful activity, as the Court mentioned before. The defendant knew that the property involved the proceeds of some form of unlawful activity, and the defendant engaged in the financial transaction with the intent of promoting the carrying on of such a specified unlawful activity.

As to the statement of facts --

THE COURT: Appreciate that clarification, Mr. Hoffman.

MS. CARLTON: Would the Court like me to read it or just put it in?

THE COURT: I think we need to go over it here in open court.

MR. HOFFMAN: I'm reading from a statement of facts that has been signed by both the defendant and his attorney and initialed by the defendant on all three pages.

At the top, it starts with: The offenses described below occurred within the Western District of Virginia, and elsewhere. The statement of facts briefly summarizes the facts and circumstances surrounding the defendant's criminal conduct. It does not necessarily contain all the information obtained in this investigation and applicable to an accurate pre-sentence report and sentencing guidelines calculation.

This statement of facts is not protected by proffer agreement, or any other agreement, and shall be wholly admissible at trial, notwithstanding any rules or statutes to the contrary, including but not limited to Federal Rules of Evidence 408 and 410 and Federal Rule of Criminal Procedure 11.

From in or about the spring of 2011 to in or about October of 2015, Robert Justin Schroeder, Jason Bradley, Deborah Ryba, David Scholz, who's now deceased, Ryan Buchanan, Brian Lister, Nicolas Purintun, and others worked together to distribute large amounts of controlled substances, including controlled substance analogues, which are also called synthetic drugs or bath salts, throughout the United States, including here in the Western District of Virginia. Some of the controlled substance analogues they distributed were MDPV and alpha-PVP. The synthetic drugs the members of this conspiracy sold were intended for human consumption. Operating under the business names of Modern Day Prophet and Platinum Prophets, this conspiracy distributed more than 20 kilograms of controlled substance analogues, and their earnings exceeded a million dollars.

Defendant Buchanan was an original member of this conspiracy and the one who suggested naming the company Modern Day Prophet. Modern Day Prophet became a major wholesale supplier of synthetic drugs to some of the synthetic distributors who were actually shut down during Operation Log Jam, the DEA's nationwide federal roundup of synthetic drug distributors in 2012. In the beginning, Robert Schroeder, Ryan Buchanan and other members of the conspiracy formed Modern Day Prophet, and opened bank accounts associated with this company. Schroeder, Buchanan and others had signature authority on these bank accounts and conducted financial transactions related to the sale and purchase of synthetic drugs. Buchanan had signature authority on the Modern Day Prophet bank account -- that's plural -- bank accounts. Buchanan stopped selling synthetic drugs or MDPV in late 2012.

Members of this conspiracy obtained the majority of their synthetic drugs from a source named Jason Bradley. Bradley was married to Deborah Ryba, who was the cousin of David Scholz, now deceased. Schroeder also obtained controlled substance analogues from other sources he found online. Beginning in 2011, Schroeder, Scholz and Buchanan transmitted to Jason Bradley large sums of money to purchase synthetic drugs for resale here in the United States. They generally used the proceeds from the drug sales in the United States to purchase additional synthetic drugs from Bradley. Scholz, Schroeder and Buchanan transmitted money to Bradley in a number of ways, including wire transfers, cashier's checks and United States currency. Some wire transfers to

Bradley exceeded $50,000, and some individual orders exceeded ten kilograms, which is approximately 22 pounds of drugs.

Bradley obtained synthetic drugs from Chinese chemical companies. To obtain the drugs, Bradley and his wife, Ryba, travelled to China, which included Thailand, Hong Kong and China -- travelled to Asia -- excuse me -- including Thailand, Hong Kong and China, to coordinate the purchases, repackaged the drugs and shipped them back to the United States. To avoid detection by law enforcement, Bradley usually smuggled the drugs in a variety of items, such as cosmetic fingernail dryers, makeup bags, children's toys and stuffed animals, and also addressed the packages to fake businesses or fake individuals at a variety of anonymous P.O. boxes in the United States. Members of the conspiracy sometimes stored synthetic drugs at storage facilities in the United States. After the packages arrived in the United States from Asia, Schroeder, Buchanan and other members of the conspiracy picked up the shipments and redistributed the synthetic drugs to sub-distributors around the United States, including head shops, gas stations and other types of sub-distributors, in Virginia, Illinois, New York, Pennsylvania, Indiana, North Carolina, South Carolina, Georgia, Texas, Missouri, Ohio, Oregon, Nevada and Michigan. Buchanan and other members of the conspiracy received feedback from customers regarding the strength and weakness of the synthetic drugs they were selling.

While Buchanan worked for MDP in 2011 and 2012, he maintained and supplied approximately five to ten regular customers that were head shops and gas stations that resold the synthetic drugs to other customers in different states. Buchanan sold synthetic cathinones -- bath salts -- and synthetic marijuana -- cannabinoids -- to MDP sub-distributors. The bath salts were labeled Crystaal Bubbly Hookah Cleaner for a period of time during the conspiracy.

Nicolas Purintun and Brian Lister also repackaged and sold synthetic drugs for the conspiracy. Purintun repackaged and/or distributed synthetic drugs for Modern Day Prophet in various locations in the United States, including Cincinnati, Ohio; Columbus, Ohio; Atlanta, Georgia; and New York. Purintun also used the fake name "Tom" to avoid detection by law enforcement. Lister maintained and supplied customers in different locations, including Atlanta, Georgia.

Buchanan took steps to avoid law enforcement detection because he knew the substances he and other members of the conspiracy were distributing were controlled by federal drug laws and he feared detection by law enforcement. For example, Buchanan knew that some of the MDP sub-distributors had been arrested and charged in 2012 as part of the nationwide federal synthetic takedown, Operation

Log Jam. The synthetic drugs that Buchanan and other members of the conspiracy sold bore deceptive names for the substances to conceal their true nature, such as "hookah cleaner," when, in fact, the substances were not used to clean hookahs. Buchanan was aware law enforcement had seized some Modern Day Prophet shipments and that Bradley typically smuggled the drugs inside of cosmetic nail dryers, the makeup bags and children's toys in order to avoid police detection. Buchanan personally observed some of these items, including the nail dryers and toys, in which he believed the synthetic drugs had been hidden for shipping. Buchanan knew that Bradley and Ryba offered insurance for an additional cost in case the synthetic drugs were seized during the shipping process. Buchanan and other members of the conspiracy also used burner phones, which were separate anonymous cell phones, to communicate about matters related to their conspiracy and avoid detection by law enforcement.

As explained above, the members of this conspiracy possessed and distributed MDPV and alpha-PVP, among other synthetic drugs. MDPV and alpha-PVP were controlled substance analogues as defined by 21 U.S.C. Section 802, sub 32. The chemical structure of MDPV is substantially similar to methcathinone, a Schedule I controlled substance, and the pharmacological effect on the central nervous system is substantially similar to that of methcathinone. The chemical structure of alpha-PVP is substantially similar to MDPV, which became a Schedule I controlled substance in July of 2012, and the pharmacological effect on the central nervous system is substantially similar to that of MDPV. As noted above, alpha-PVP became a controlled substance in March of 2014. When the members of this conspiracy distributed controlled substance analogues, they intended that the chemicals would be consumed by humans seeking to experience a high.

The defendant then states that he has reviewed the above statement of facts with his attorney and he believes the facts are true and correct. He agrees had this matter gone to trial, the United States would have proven the facts outlined above beyond a reasonable doubt.

THE COURT: Mr. Adams, any dispute about the facts just presented?

MR. ADAMS: No, Your Honor.

THE COURT: Mr. Buchanan, you've just heard a summary of the evidence against you. Is there anything in the written statement that's just been read here with which you disagree?

THE DEFENDANT: No, Your Honor.

THE COURT: Did you go over this written statement with your lawyer?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Did you do the things that are attributed to you in this statement?

THE DEFENDANT: Yes, I did, Your Honor.

THE COURT: Tell me what you did that makes you feel guilty of these criminal charges. What did you do?

THE DEFENDANT: Well, I had the product shipped from China, hidden to try to avoid the detection in order to, obviously, sell them to head shops for proceeds that we laundered through the business that I was involved with, Modern Day Prophet.

THE COURT: Did you know the purpose for these substances? Did you know why they were being sold?

THE DEFENDANT: Yes.

THE COURT: What was that?

THE DEFENDANT: To get you high.

THE COURT: So humans would consume them to get high.

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Hoffman, let me ask you this question. What's the connection to the Western District of Virginia?

MR. HOFFMAN: There were customers in the Western District of Virginia, and there was at least one other sub-distributor here in the Western District of Virginia, Your Honor.

THE COURT: Okay.

Did you understand that as well, Mr. Buchanan?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Now, are you, in fact, guilty of what's charged in Counts 1 and 3 of the superseding indictment?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Pleading guilty of your own free will?

THE DEFENDANT: Yes, I am.

THE COURT: Counsel, based on your investigation of the facts of this case, your understanding of your client, what took place in connection with the indictment, your review of the discovery, do you believe your client's plea of guilty to Counts 1 and 3 pursuant to the written plea agreement is well advised and consistent with these facts?

MR. ADAMS: Yes, Your Honor.

THE COURT: And in his best interests?

MR. ADAMS: Absolutely, Your Honor.

THE COURT: As to Count 1 of the superseding indictment pursuant to the written plea agreement, Mr. Buchanan, how do you plead?

THE DEFENDANT: I plead guilty.

THE COURT: As to Count 3 of the superseding indictment pursuant to the written plea agreement, Mr. Buchanan, how do you plead?

THE DEFENDANT: Guilty.

THE COURT: Listen to the clerk while she reads the written guilty plea form.

(Guilty plea form read.)

THE CLERK: Is this correct?

THE DEFENDANT: Correct.

(Guilty plea form executed.)

THE CLERK: Your Honor, the guilty plea form has been executed.

THE COURT: It's the finding of the Court in the case of United States vs. Ryan Buchanan that the defendant is fully competent and capable of entering an informed plea. He's aware of the nature of the charges and the consequences of his plea. His plea of guilty as to Counts 1 and 3 pursuant to the written plea agreement is knowing, voluntary, intelligent, supported by an independent basis in fact as to each of the essential elements of the offense.

I'm going to take the plea and plea agreement under advisement pending sentencing. I'm going to refer the matter to probation for the creation of a pre-sentence report. You'll be asked to give information. Your lawyer may be present at any such interviews by probation.

You'll be given a chance to review the pre-sentence report, make any necessary objections or corrections to it before sentence.

Sentence is set for May 24, 2017, at 11 o'clock, in this courtroom.

By agreement of counsel, agreement of the United

States, I'm going to allow you to continue on bond. Same terms and conditions of bond you have been under. I understand from probation there have been no violations.

Look. It's not in your interests between now and the time of sentencing to mess up on your bond. You want to make sure from your standpoint that you indicate to the Court that you are as cooperative and law-abiding as possible. It just wouldn't look good for you to get involved in any violations of the terms and conditions of your bond, including any additional law-breaking, between now and the time of your sentencing.

Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Anything else from the United States?

MR. HOFFMAN: No, Your Honor.

THE COURT: Mr. Adams, anything else from you?

MR. ADAMS: No, Your Honor. Thank you.

THE COURT: I'll see you in May. Good luck to you, Mr. Buchanan. Please stay out of trouble between now and then.

Ask the marshal to declare a recess.

(Proceedings concluded at 9:05 a.m.)

"I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Sonia Ferris Digitally signed by Sonia Ferris
DN: cn=Sonia Ferris, o, ou, email=sonia.ferris@gmail.com, c=US
Date: 2017.02.09 11:44:52 -05'00'